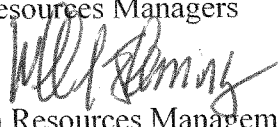


SEP 08 2011



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

MEMORANDUM FOR Secretarial Officers
Operating Unit Heads
Principal Human Resources Managers

FROM: William J. Fleming 
Director for Human Resources Management and
Deputy Chief Human Capital Officer

SUBJECT: 2011 End-of-Year Guidance for Senior Executive and Senior
Professional Employees

As we approach the end of the 2011 performance management cycle, the Department of Commerce (Department) holds provisional certification of its Senior Executive Service (SES) and Senior Professional (ST/SL) performance management systems due to the lack of articulation of measurable results in the 2010 plans. Full certification is only obtained when agencies demonstrate that their executives are being held accountable for individual and organizational results and are making meaningful distinctions in ratings and compensation based on relative performance. The Department was recently informed that the Office of Personnel Management will be recommending to the Office of Management and Budget that be granted full certification of its SES performance management system for 2012 and 2013. Retention of full certification requires that you must critically assess and appropriately reward the contributions of each executive to the success of the Department's mission and programs. This is essential to keeping the Department's efforts aligned with its strategic plan and goals as well.

The Deputy Secretary serves as the Senior Assessment Official and as required by regulation, to achieve certification of the Senior Executive and Senior Professional Performance Management systems, must certify that:

- the Department's appraisal process makes meaningful distinctions based on relative performance
- results of the appraisal process take into account the bureaus' assessments of their performance against program assessment results; and
- pay adjustments, bonuses, awards, and salaries and overall compensation accurately reflect and recognize both individual and organizational performance.

The current freeze on performance-based pay adjustments and application of a Government-wide five percent bonus pool for SES, ST/SL employees does not diminish the importance of the Departmental and bureau Performance Review Boards' (PRB) role in the performance management process; rather they are essential to ensuring that meaningful distinctions in relative performance are made. They must ensure that the above mentioned criteria is met, and afford especially close scrutiny to cases in which Outstanding ratings are recommended. Guidance on the activities, responsibilities and composition of PRBs, is provided in Attachment A of this

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memorandum. Please note that noncareer executive participation on each PRB again will be required and the size of published membership limited to no more than five members. It is critical that you convey throughout the management chain and to the PRB that narrative summaries must clearly and strongly support the assigned rating of record and any recommendation for a performance bonus. The narrative summaries must also express the specific nature and quality of the executives' performance results and unambiguously convey their contribution to mission accomplishment. Due to feedback concerning the space limitations of the "Results/Accomplishment" column of the CD-518 form, documentation of results in this column will be left to bureau discretion. The Department will only require narrative summaries detailing results to be completed this year, not both. This modification is being made on a trial basis and its impact upon the performance management process will be assessed at the conclusion of the 2011 activities. Narrative summaries must be submitted in the format contained in Attachment B of this memorandum, may not exceed two pages, and must be written and signed by the supervisor of record, not by the employee whose performance is being appraised. In stating that the ratings should be strongly supported, it means the assigned rating must closely comport to the applicable performance rating level definitions contained at Appendix B of the CD-518 Senior Executive/Professional Performance Agreement, and are provided as Attachment B of this memorandum. Consequences of failure to meet performance requirements are outlined in Attachment C.

Prior to commencement of their work, PRBs will be provided with copies of applicable PRB charter(s) and they will be instructed to critically examine performance appraisals' alignment with strategic goals, results and accountability. In accordance with Departmental policy, during September the Department will conduct information briefings on the SES and senior professional (ST/SL) performance management process, with special focus on the PRBs, for all rating and reviewing officials, PRB members and human resources liaisons. The briefings are tentatively scheduled to be held September 16, 20, and 22, 1:00 p.m. to 2:30 p.m., in HCHB Room 5201.

In accordance with applicable Department Organizational Orders, the Deputy Chief Financial Officer (CFO) will rate the critical element, "Financial Operations and Management," the Chief Information Officer (CIO) will rate the critical element, "Information Technology Management," and the Director for Human Resources Management and Deputy Chief Human Capital Officer will rate the critical element, "Human Capital Management." Guidance on the CFO, CIO, and Principal Human Resources Managers' positions, as well as guidance for other positions for which there is a Departmental executive counterpart position, will be forthcoming shortly.

Please advise your management that recommendations must be made in line with the Departmental Pay Policy Summary contained at Attachment D. This policy supports the requirement that the highest performers shall receive the highest compensation. Prior to submission to the Department, bureaus and operating units must review all documentation to ensure that all submissions comply with the policy criteria and reconcile any discrepancies. A documentation submission checklist will be provided to Principal Human Resources Managers under separate cover. They will be required to review the checklist and certify that all submission requirements have been met.

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While OPM has not yet finalized its guidance on 2012 Presidential Rank Awards, no major changes to the guidance are anticipated. Therefore, please be certain to submit nominations in accordance with the guidance contained at Attachment E. Upon receipt of OPM's official guidance, additional instructions will be forwarded to you.

As always, please remind rating and reviewing officials that performance-based bonus and other related recommendations are not final until approved by the Secretary of Commerce. Bureau/operating unit recommendations are not binding, so no written or verbal feedback may be provided to executives until after receipt of the Secretary's approval.

The timetable for end-of-year activities is contained at Attachment F. Of note, the bonus payout date will be in Tax Year 2012, enhancing the 2012 personal tax planning opportunity. Please ensure that your staff carefully follows all procedures and strictly adheres to the Departmental timetable. If you have any questions, please feel free to contact William J. Fleming, Director for Human Resources Management and Deputy Chief Human Capital Officer at (202) 482-3502, or Denise A. Yaag, Director, Office of Executive Resources at (202) 482-3600.

Attachments:

- Attachment A – Operating Unit/Bureau Performance Review Board (PRB) Guidelines and OPM Appraisal System Criteria
- Attachment B – Narrative Summary Format and SES Performance Rating Level Definitions
- Attachment C – Adverse Action Procedures for Career SES Members Who Fail to Meet Performance Requirements
- Attachment D – Pay Policy Summary
- Attachment E – Presidential Rank Award Program Instructions and Sample Formats
- Attachment F – Timetable for End-of-Year Senior Employee Activities

Operating Unit/Bureau Performance Review Board (PRB) Guidelines

The following highlights the PRBs' role in performance management and the processes they must follow to meet the Civil Service Reform Act, the Chief Human Capital Officers Act of 2002, and the National Defense Authorization Act of 2004, Office of Personnel Management implementing regulations, and Departmental requirements. These guidelines are supplemented by applicable operating unit/bureau PRB charters.

PRB Membership Restrictions

While additional restrictions may be listed in applicable PRB charters, at a minimum, a member shall not participate in a specific performance appraisal review when he/she is:

1. The senior executive whose performance is being reviewed
2. The rater of the senior executive(s) whose performance is being reviewed
3. The direct subordinate of the senior executive whose performance is being reviewed.

To participate in PRB deliberations, each member must have a current performance rating of Fully Successful or higher.

Each PRB must have at a minimum, one member who is not within the organizations under the reporting line of the Secretarial Officer or Operating Unit Head.

Each PRB must include noncareer executive participation. It is encouraged that the executive function as a full member, but at a minimum, in an advisory capacity.

While a greater number of members may be published to ensure a sufficient number of executives are available to convene, PRBs are limited to five convening to perform their performance management cycle-related work.

General Process Information

Prior to commencement of PRB activities, all members must be provided copies of applicable PRB charter(s), the content of which must be discussed with them by a human resources office representative having expertise in executive performance management subject matter. PRBs additionally must be advised that in the conduct of their work they must critically examine performance appraisals' alignment with strategic goals, results and accountability.

PRBs must be diligent in the review process to ensure meaningful distinctions based on relative performance are being made, thereby strengthening the link between performance and pay. In particular, PRBs are required to examine the alignment of executives' performance outcomes with strategic goals.

PRBs review initial summary ratings and performance-based pay adjustment and bonus recommendations, and based on Departmental Pay Policy (Attachment D), make recommendations to Appointing Authorities on:

1. Final annual summary ratings
2. Performance-based SES, ST and SL bonuses
3. Performance-based SES, SL and ST pay adjustments
4. Presidential Rank Awards

In their review process, PRBs must consider organizational assessments and OPM's criteria for certified performance management systems. Exhibition of these criteria support meaningful distinctions in relative performance. The criteria are provided at the bottom of this attachment.

Higher Level Review

A senior executive may request higher level review of the initial summary rating before they are forwarded to the PRB for review. The senior executive is entitled to one higher level review. The request must be made to the principal human resources manager within 5 work days of receipt of the initial rating. This must be done prior to the PRB considering the executive's rating.

Recommendations to Secretarial Officers and Operating Unit Heads

After review of performance appraisals, initial summary ratings, senior executives' written responses, if any, recommended performance-based pay adjustments and bonuses, and organizational assessments, PRBs must compare documentation against criteria in PRB charters and assessed for conformance with OPM criteria. Written recommendations regarding senior executive appraisals and ratings must be made to the appropriate Secretarial Officer/Operating Unit Head. PRB recommendations are not binding. When the PRB does not concur with the initial summary rating, or when there is a record of disagreement with the rating by the executive, the PRB must include a written explanation for its recommendation. PRBs must always document their recommendations concerning the proposed performance-based pay adjustments and bonuses on page 5 of the CD-518 form and the PRB Chair must initial them.

OPM Criteria

Alignment – Performance expectations' linkage or derivation from the Department's and subordinate organizations' mission, strategic goals, program/policy objectives and/or annual performance plan.

Consultation – Evidence is present that performance expectations are based on senior employees' involvement and input and were communicated to the employee at the beginning of the appraisal period and requirements and progress in meeting them was communicated at appropriate times thereafter.

Results – The summary material being reviewed reflects that performance expectations for senior employees apply to their respective areas of responsibility; reflect expected Departmental or organizational performance, clearly describe performance that is measurable, demonstrable or observable; and focus on tangible outputs, outcomes, milestones, or other deliverables.

Balance – The documentation includes appropriate measures or indicators of results; customer/stakeholder feedback; quality, quantity, timeliness, and cost effectiveness as

applicable, and competencies or behaviors that contributed to and are necessary to distinguish outstanding performance.

Assessment and Guidelines – Evidence is present that the agency head or designee provides assessments of performance of the agency overall, as well as each of its major program and functional areas, such as GPRA goals and other program performance measures and indicators, and evaluation guidelines issued and based, in part, upon those assessments provided to senior employees, senior employee rating and reviewing officials and the PRB members. Assessments and guidelines are to be provided at the conclusion of the appraisal period but before ratings are recommended.

Oversight – There is rigorous oversight of the appraisal process by the agency head or designee who certifies that: 1) the senior employee appraisal process makes meaningful distinctions based on relative performance; 2) results of the process take into account, as appropriate, the agency's assessment of its performance against program performance measures; and 3) pay adjustments, cash awards, and levels of pay accurately reflect and recognize both individual and organizational performance.

Accountability – The senior employee's rating (as well as subordinate employee's performance expectations and ratings for those with supervisory responsibilities) appropriately reflect the employee's performance measures, and any other relevant factors.

Performance Differentiation – 1) The appraisal process includes a rating level that reflects outstanding performance and provides for clear differentiation of outstanding performance, as defined in the regulations; and 2) the appraisal process results in meaningful distinctions in relative performance based on senior employees; actual performance against rigorous performance expectations. "Relative performance" in this context does not require ranking senior employees against each other. Indeed, such ranking is prohibited for the purpose of determining performance ratings. Rather it is defined as the performance of a senior employee with respect to the performance of other senior employees, including their contribution to agency performance, where appropriate, as determined by the application of a certified appraisal system.

Pay Differentiation – Individual pay rates and pay adjustments, as well as their overall distribution, reflect meaningful distinctions among executives based on their relative contribution to agency performance. Agencies must ensure transparency in the process for making decisions. The highest performing senior employees should receive the largest pay adjustments and or highest pay levels (including both basic pay and performance awards), particularly above the rate for level III of the Executive Schedule.

Narrative Summary

Bureau: _____
Name of Senior Executive/Professional: _____
Position Title: _____
Recommended Rating (Adjective): _____
Bonus Percentage: _____
Check if Nominee is Under Consideration for a Presidential Rank Award: _____

(Narrative not to exceed two pages.)

**Adverse Action Procedures for Career SES Members
Who Fail to Meet Performance Requirements**

Coverage

Career SES members who have completed the probationary period, if required, and who are not re-employed annuitants.

Removal Due to Failure to Meet Annual Performance Requirements

An Unsatisfactory rating requires a reassignment or transfer within the SES, or removal from the SES in accordance with 5 CFR 430.309(c)(1).

Two Unsatisfactory ratings within any period of 5 consecutive years require removal from the SES in accordance with 5 CFR 430.309(c)(2).

Two less than Fully Successful ratings in any period of 3 consecutive years require removal from the SES in accordance with 5 CFR 430.309(c)(3).

Notice in writing is required at least 30 days before the effective date of the removal action. The notice shall include:

- The basis for the action;
- The executive's placement rights;
- The executive's right to an informal Merit System Protection Board (MSPB) hearing;
- The effective date of removal;
- (If applicable), the appointee's eligibility for immediate discontinued service retirement in lieu of placement rights.
- The fallback position to a GS-15 or equivalent position will be identified.
- Notice of the right to an informal hearing before MSPB at the employee's request at least 15 days before the effective date of removal.

Removal for less than Fully Successful performance cannot be made effective within 120 days after the appointment of a new Secretary of Commerce or the appointment of the career appointee's most immediate supervisor who is a noncareer appointee and has the authority to remove the career appointee (the Secretarial Officer). This restriction does not apply when the career appointee has received a final rating of Unsatisfactory under the Department's performance appraisal system before the appointment of a new agency head or Appointing Authority.

Senior Executive/Professional Pay Policy Summary

The Department of Commerce (DOC) determinations on setting and adjusting rates of basic pay for Senior Executive Service (SES) members and Senior Professionals (ST/SL) are based on each individual's performance and in relation to the quality of achievement of organizational and Departmental goals and objectives.

The DOC SES and ST/SL Performance Management Systems have five summary performance levels: Outstanding (Level 5), Commendable (Level 4), Fully Successful (Level 3), Minimally Acceptable (Level 2), and Unsatisfactory (Level 1). No decimals other than .5 may be used in assignment of element ratings.

DOC SES Performance-based pay Adjustment Basic Eligibility Criteria

Pursuant to section 147 of the Continuing Appropriations Act, 2011 (Pub. L. 111-242, September 30, 2010), as amended by section 1(a) of the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Pub. L. 111-322), SES, ST/SL employees may not receive performance-based pay adjustments in 2012.

Decisions concerning SES performance-related downward pay adjustments are limited to no more than 10 percent of base pay and will be made at the discretion of the Secretarial Officer, with prior consultation with the Deputy Chief Human Capital Officer and Director of Human Resources Management, and the approval of the Departmental Executive Resources Board (DERB).

DOC SES Bonus Pool

Per the Office of Personnel Management's Compensation Policy Memoranda 2011-10, dated June 10, 2011, total spending on performance-based bonuses for members of the SES and SL/ST must be no more than five percent of aggregate salaries. Thus, the Department's SES bonus pool is funded at 5 percent of the aggregate salaries of career executives as of September 30, 2011. Pool amounts are calculated by separate program areas and prorated to provide for distribution by DERB recommendations to the Secretary of Commerce. The DERB may adjust individual pools as long as the agency's 5 percent funding maximum is maintained. The Department will provide Secretarial Officers/Operating Unit Heads their bonus pool amounts. Bureaus and Operating Units may not exceed the designated pool amounts.

For the Department's ST/SL cadre, a 5 percent pool calculated similarly to the SES will be applied in accordance with the requirements provided above. Unlike the SES, due to the nature of the ST/SLs' work, no Secretarial reserve will be used. It is noted that some ST/SL populations are very small, consequently, bureaus will be allowed to request that the DERB allow bonuses to be given in excess of the assigned pool amount. Such requests must be on a limited basis, reserved for the highest performers, and supported by thorough, detailed justifications. The DERB will consider such requests to the extent that funds allow.

DOC SES Performance-based Bonuses

In accordance with statute, only career executives may receive performance-based bonuses. If proposed for a bonus, career executives may receive from the statutory minimum of 5 percent, up to 15 percent of salary. Bonuses may only be proposed within the applicable bonus amount ceilings; executives may receive a 5 percent bonus for a Fully Successful summary rating, up to 10 percent for a Commendable summary rating, and up to 15 percent for an Outstanding summary rating. Bonuses are computed as a percentage of base salary, up to two decimal places. The DERB reserves the right to make recommendations to the Secretary for bonuses of more than 15 percent. Expression of bonuses as dollar values rather than percentages will not be accepted.

DOC Senior Professional Performance-based Bonuses

The following bonus structure will apply for Senior Professionals. If proposed for a bonus, Senior Professionals may receive up to 3 percent (maximum of \$5,180) for a Fully Successful Rating; 3.1 to 4.6 percent (approximately \$4,675 - \$7,943) for a Commendable rating; and 4.7 to 5.79 percent (approximately \$7,087 to \$9,998) for an Outstanding rating. A formal bonus structure is necessary in order for the Department to maintain certification of its ST/SL Performance Management System. Bureaus are permitted to request that the DERB provide additional bonus amounts on an individual basis, not to exceed 5.79 percent, to the extent leftover funding is available and the aggregate 5 percent is not exceeded.

2011 Presidential Rank Award recipients are not eligible for bonuses.

Presidential Rank Award Program Instructions

General Information

To recognize prolonged high quality accomplishment, the President awards the rank of Distinguished Executive, Distinguished Senior Professional, Meritorious Executive, and Meritorious Senior Professional each year to a select number of SES career executives and senior career professionals.

Distinguished Executive and Distinguished Senior Professional Rank Awards recognize sustained extraordinary accomplishment and include an award of 35 percent of base pay.

Meritorious Executive and Meritorious Senior Professional Rank Awards recognize sustained accomplishment and include an award of 20 percent of base pay.

The Department submits its nominations to OPM which administers the Presidential Rank Award Review Boards, composed of private citizens. Separate Review Boards evaluate SES nominations and the senior professional nominations. Each Board has three members who individually evaluate and rate the accomplishments described in the justification statements. Each member makes an independent judgment on the cases presented.

The Review Boards for the Distinguished Rank Awards meet in Washington, DC, usually in March or April. OPM conducts inquiries on all nominees for Distinguished Rank Awards that the Review Boards recommend for approval and pays the cost of these inquiries. Distinguished nominees who do not score high enough to be recommended for approval are referred to Meritorious Review Boards, if eligible.

Submission Requirements

Nominations must be signed by the appropriate Secretarial Officer and/or Head of the Operating Unit before submission to the Department. By signing this document, the Secretarial Officer/Head of the Operating Unit affirms that all information and accomplishments in the nomination are accurate.

Each nomination must contain the following original documentation (and four (4) copies), arranged in the order listed below:

- Form CD-590, Executive Personnel Transaction (available on the Department's forms website), signed by the Secretarial Officer or Head of the Operating Unit. Please note, bureaus must ensure that all information on the CD-590 matches exactly the data provided on the nomination form.
- Completed copy of the applicable Presidential Rank Award Program Nomination Form signed by the Secretarial Officer. Each nomination form must be complete and legible.
- Biographical Summary in bullet form that describes the executive's current position and lists highlights from his/her SES or ST/SL career.
- Accomplishment Summary which lists accomplishments attained by the executive which serve as the basis for the nomination and are elaborated upon in the Justification

Statement. The Biographical Summary and Accomplishment Summary, combined, may not exceed one page.

- A Justification Statement that addresses the nominee's career accomplishments in terms of the Senior Executive or senior professional criteria in a concise manner. The Presidential Rank Award Review Board members will evaluate the nomination against the same criteria. The justification statement may not exceed three (3) pages in length; longer justifications will be returned without action. Please spell out acronyms and abbreviations. Do not use any staples or paper clips in the nomination folder. The justification heading should indicate the individual's name, title, and operating unit.
- A summary data sheet listing rank nominees showing name, the current and previous 3 years' performance ratings, years of service with the Department, previous recognition, including rank awards for which nominees were recommended but not approved. See Attachment E-1.
- The accounting classification code number to be used for payment of an award.
- The work phone and fax number of each nominee.

Bureaus must ensure that nominations meet OPM and DOC requirements exactly, and all packages must be free of typographical errors. Nominations returned for rewriting or other corrections should be rare. All required documentation must be received in the Department's Office of Human Resources Management, Office of Executive Resources, by the deadline to ensure that review and preparation for the DERB are not delayed.

If you have questions concerning the Presidential Rank Award Program or the nomination procedures, please call Terri Lucente, Executive Resources Policy Program Manager, at (202) 482-1630.

[Name of Operating Unit]

DISTINGUISHED NOMINATIONS

NAME	RATING YEAR '11	PRIOR RATINGS			YEARS OF SERVICE	PREVIOUS RECOGNITION*
		'10	'09	'08		
1. Jane Doe	O	O	C	O	15	'10 – 15% Bonus '08 – Meritorious Rank
2. John Sanchez	C	O	O	O	12	'10 – 10% Bonus '09 – Dist/Nominee/NS

MERITORIOUS NOMINATIONS

NAME	RATING YEAR '11	PRIOR RATINGS			YEARS OF SERVICE	PREVIOUS RECOGNITION*
		'10	'09	'08		
1. Jerry Brown	O	O	O	O	19	'10 – 15% Bonus '07 – 10% Bonus '95 – Gold Medal '91 – Nobel Prize '89 – Merit/Nominee/NS
2. Gina Chin	C	C	O	O	4	'10 – 09% Bonus

*When an executive received an SES bonus in the past, provide the year and percent of the bonus as illustrated. **Do not provide dollar amount.**

Timetable for End-of-Year Senior Executive/Professional Activities

August 2011	End-of-Year Guidance issued.
September 16, 20, and 22, 2011	Performance Review Board Briefings
September 30, 2011	End of FY 2011 Senior Executive/Professional Performance Cycle.
October 4, 2011	Executive Resources Information System (ERIS) is populated via download from the National Finance Center (NFC) and forwarded to the bureau contacts.
October 7, 2011	Bureaus provide Department's Chief Financial Officer and Assistant Secretary for Administration (CFO/ASA) with bureau organizational assessment data.
October 13, 2011	<p>Recommended rating and appraisals for bureau CFOs and CIOs covering the Department's 25 percent of ratings for the "Financial Operations and Management," "IT Management," and "Human Capital Management" critical elements, are provided to the Office of Executive Resources to transmit to bureaus for consolidation into CFOs', CIOs', and PHRMs' overall ratings, respectively.</p> <p>Principal Human Resources Managers forward performance ratings of executives requesting higher level review for executives who exercise this option and for which no higher level exists in the bureau or operating unit.</p>
October 20, 2011	<p>Organizational assessment results are issued to bureaus as required by OPM regulations.</p> <p>Bureaus provide recommended ratings and performance-based bonus amounts for those executives requiring Departmental Performance Review Board (DPRB) review to OHRM, OER. DPRB completes review of performance ratings of executives requesting higher level review and forwards recommendations to the Secretarial Officers for their PRBs' consideration.</p> <p>Office of the General Counsel (OGC), Chief Information Officer (CIO), CFO/ASA and the Office of the Secretary (OS) provide recommended ratings and bonuses to the Director of Human Resources Management (HRM), OHRM, for Office of the Secretary PRB review.</p>
October 24-28, 2011	Bureaus, including OS, provide recommended ratings, bonus amounts, and Presidential Rank Award nominations to bureau

operating Performance Review Boards (PRB) and convene PRBs and the DPRB.

November 2, 2010	Results of DPRB review of ratings are provided to bureau heads by the Deputy CHCO/Director for HRM.
	Results of the OS PRB are provided to OGC, CIO, CFO/ASA, and OS by the Director for HRM/ Deputy CHCO.
November 4, 2011	Bureaus, OGC, CIO, CFO/ASA, and OS complete bonus review process. Secretarial Officers submit recommendations for bonuses (with appraisals and narrative justifications), Presidential Rank Award nominations to the Director of HRM, for the Departmental Executive Resources Board (DERB) review.
November 17- December 2, 2011	DERB meets and finalizes recommendations on bonuses and submits them to the Director for HRM/Deputy CHCO.
December 7, 2011	Final decisions are made by the Secretary of Commerce
December 16, 2011	Bureaus are notified of final decisions
December 18, 2011	Performance-based bonuses are effective
December 19, 2011	OHRM electronically transmits approved information to NFC
January 12, 2012	Official pay date for FY 2011 SES and ST/SL bonuses. SES and ST/SL bonuses will be included in pay period 26 salary payment.